



Order Filed on August 23, 2019
by Clerk U.S. Bankruptcy Court
District of New Jersey

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY**
Caption in compliance with D.N.J. LBR 9004-1(b)

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In re:

NEW ENGLAND MOTOR FREIGHT, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 19-12809 (JKS)

(Jointly Administered)

CONSENT ORDER

This consent order (the “Consent Order”) is made by and among Capital One, N.A. (“Capital One”), the above-captioned debtors-in-possession (collectively, the “Debtors”), and the Official Committee of Unsecured Creditors (the “Committee” and, together with Capital One and the Debtors, each a “Party” and collectively the “Parties”).

DATED: August 23, 2019



Honorable John K. Sherwood
United States Bankruptcy Court

¹ The Debtors in these chapter 11 cases and the last four digits of each Debtor’s taxpayer identification number are as follows: New England Motor Freight, Inc. (7697); Eastern Freight Ways, Inc. (3461); NEMF World Transport, Inc. (2777); Apex Logistics, Inc. (5347); Jans Leasing Corp. (9009); Carrier Industries, Inc. (9223); Myar, LLC (4357); MyJon, LLC (7305); Hollywood Avenue Solar, LLC (2206); United Express Solar, LLC (1126); and NEMF Logistics, LLC (4666).

RECITALS

WHEREAS, on February 11, 2019 (the “Petition Date”), each of the above-captioned Debtors filed a voluntary petition for relief under chapter 11, title 11, United States Code, 11 U.S.C. §§ 101, *et seq.* (the “Bankruptcy Code”), in the United States Bankruptcy Court for the District of New Jersey (the “Bankruptcy Court”), thereby initiating the above-captioned chapter 11 cases (the “Chapter 11 Cases”). The Debtors, as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code, are engaged in an orderly liquidation of their assets and wind-down of their businesses, toward the goal of preserving and maximizing the value of their assets for all creditors; and

WHEREAS, on or about February 25, 2019, the Office of the United States Trustee appointed the Committee; and

WHEREAS, on April 8, 2019, the Court entered the NEMF Auction Sale Order, which authorized the sale of Debtor New England Motor Freight’s (“NEMF”) “Equipment” (as defined in the NEMF Auction Sale Order) pursuant to an Engagement Agreement between the Debtors and T&M; and the Court having subsequently entered an Order in aid of the NEMF Auction Sale Order [Dkt. No. 629], which expanded the scope of the auctions by authorizing the sale of additional Equipment owned by Debtors other than NEMF; and

WHEREAS, from approximately late May 2019 through mid-July 2019, T&M sold the Equipment through auctions conducted at various locations (the “Auctions”); and

WHEREAS, certain Equipment and/or other property of the Debtors’ estates, identified on Schedule A hereto (the “Collateral”), was not sold in the Auctions due to its condition; and

WHEREAS, the Collateral consists of two tractors in which Capital One has a perfected security interest; and

WHEREAS, buyers for some or all of the Collateral are in the process of being identified, and the Parties now desire for the Collateral to be released to Capital One and to be sold by Capital One through one or more private sales with the cooperation and assistance of the Debtors to the extent necessary and desirable by the Parties; and

WHEREAS, the Parties have engaged in settlement discussions and now desire to terminate the automatic stay as to the Collateral as provided in this Consent Order.

NOW, THEREFORE, the Parties agree as follows:

1. The foregoing recitals are incorporated herein by reference.
2. The automatic stay is hereby terminated as set forth herein pursuant to Section 362(d) of the Bankruptcy Code as to the Collateral.
3. Capital One shall be authorized, but not required, to take immediate possession and control of the Collateral and liquidate the Collateral through commercially reasonable means, including, without limitation, to accept an offer from a third party to purchase the Collateral for \$27,500.00 in the aggregate, and consistent with all applicable laws. The Debtors are authorized to provide cooperation and assistance to Capital One as may be reasonably requested without cost to Capital One unless specifically agreed to in writing between and/or among the Parties. After all of the Collateral has been sold, Capital One shall provide the Debtors and the Committee with a report of the sale results as soon as reasonably practicable. To the extent the sale(s) conducted by Capital One result in net proceeds greater than Capital One's liens, all of the Debtors' and the Committee's rights with respect to those proceeds are hereby preserved.
4. This Consent Order may not be amended without the express written consent of all Parties hereto and entry by the Bankruptcy Court of an amended order approving same.

5. This Consent Order shall be binding upon the Parties hereto and upon all of their affiliates, assigns and successors, including without limitation any bankruptcy trustee that might be appointed in the future.

6. The Bankruptcy Court will retain jurisdiction over all matters related to this Consent Order.

IN WITNESS WHEREOF, the Parties hereto have executed this Consent Order as of the date and year first written below and each such Party consents to the form and manner of this Consent Order.

Dated: August 22, 2019

GIBBONS P.C.

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Dated: August 22, 2019

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Dated: August 22, 2019

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SCHEDULE A – COLLATERAL

<u>Unit #</u>	<u>Type</u>	<u>VIN</u>	<u>Year</u>	<u>Make</u>	<u>Model</u>
38016	TRACTOR	3AKJGBDV6GDGZ6250	2016	FRGHT	CA113DC
38616	TRACTOR	3AKJGBDV7GDGZ6256	2016	FRGHT	CA113DC